

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ASTELLAS INSTITUTE FOR REGENERATIVE
MEDICINE, and STEM CELL & REGENERATIVE
MEDICINE INTERNATIONAL, INC.,

Plaintiffs,

v.

IMSTEM BIOTECHNOLOGY, INC., XIAOFANG
WANG, and REN-HE XU,

Defendants.

C.A. No. 1:17-cv-12239

**MEMORANDUM IN SUPPORT OF
ASSENTED-TO MOTION TO EXTEND DEFENDANTS' TIME TO
REPLY TO PLAINTIFFS' MOTION TO DISMISS COUNTERCLAIMS**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, ImStem Biotechnology, Inc. ("ImStem") and Xiaofang Wang, M.D., Ph.D. ("Dr. Wang") (collectively "Defendants") request that the Court extend the deadline for Defendants' reply to Astellas Institute for Regenerative Medicine's ("Astellas") and Stem Cell & Regenerative Medicine International, Inc.'s ("SCRMI") (collectively "Plaintiffs") Motion to Dismiss Defendants' Counterclaims ("Motion") by thirty (30) days to March 16, 2018. As grounds for the Motion, Defendants state the following:

1. On November 13, 2017, Plaintiffs filed a Complaint seeking *inter alia* a correction of inventorship for United States Patent No. 9,745,551 (the "551 patent").
2. On January 10, 2018, Defendants answered and counterclaimed for *inter alia* correction of inventorship of U.S. Patent No. 8,961,956 (the "956 Patent").

3. On January 31, 2018, Plaintiffs filed a Motion to Dismiss Defendants' Counterclaims. Pursuant to L.R. 7.1, the response date would ordinarily be February 14, 2017.

4. Dr. Wang is the Chief Technical Officer of ImStem, a technical expert in the relevant science, and a critical fact witness for purposes of responding to the Motion. Unfortunately, Dr. Wang has been in China, celebrating the Chinese New Year, since February 4, 2018, just two days after he received the Plaintiffs' Motion. He plans to return to the United States on March 1, 2018.

5. Dr. Wang's unavailability during Chinese New Year celebrations and the twelve-hour time difference between China and Portland, Maine – his counsel's domicile – impede the communication necessary to prepare an adequate opposition to the Motion. Further, to require Dr. Wang to abandon his New Year's celebrations would unduly burden Dr. Wang for a trip he had planned one year in advance.

6. Plaintiffs have assented to the relief sought in this Motion.

WHEREFORE, for the reasons set forth more fully above, the Defendants request that the Court extend the deadline for the Defendants to file an opposition to the Plaintiffs' Motion by thirty (30) days to March 16, 2018.

Dated: February 14, 2018

Respectfully submitted,

IMSTEM BIOTECHNOLOGY, INC.

By its counsel:

/s/ Timothy R. Shannon

Timothy R. Shannon, MA Bar # 655325

VERRILL DANA LLP

One Portland Square

P.O. Box 586

Portland, Maine 04112-0586

(207) 774-4000

tshannon@verrilldana.com

tneff@verrilldana.com

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2018, I caused a true copy of the foregoing document to be served upon all counsel of record via the Court's CM/ECF electronic filing system.

/s/ Timothy R. Shannon

Timothy R. Shannon